



OFFICE OF  
INSURANCE COMMISSIONER

IN THE MATTER OF

CLETE D. HOINESS,

Respondent.

ORDER NO. 14-0058

CONSENT ORDER  
LEVYING A FINE

Pursuant to the authority set forth in the Insurance Code, including RCW 48.17.530, and having reviewed the official records and files of the Office of the Insurance Commissioner ("Commissioner" or "OIC"), the Commissioner makes the following:

**FINDINGS OF FACT:**

1. Clete D. Hoiness obtained his agent license in Washington in 1990, and this license was converted in July of 2009 to an insurance producer license (WAOIC # 73491).
2. On or about July 6, 2012, a client of the agency where Mr. Hoiness worked contacted the agency about coverage for a newly purchased ATV. The client also obtained a quote for this coverage from one of Mr. Hoiness's office colleagues, but the client did not purchase the policy. Approximately two weeks later, Mr. Hoiness's agency received a new claim notice, wherein the client made a claim for the theft of the ATV. The ATV theft reportedly occurred on or about July 29, 2012. The client's claim was made under another in-force insurance policy. On or about July 31, 2012, Mr. Hoiness spoke with the client for the first time about the matter and explained to the client that the ATV claim would not be covered under their personal auto policy. During Mr. Hoiness's conversation with the client, Mr. Hoiness gained the impression that there may have been some miscommunication with the client on July 6 about the auto policy covering the ATV. To try to serve the client, Mr. Hoiness told the client that he could submit the saved quote or online application from July 6 with the same effective date and ask that the claim be considered since the client did contact Mr. Hoiness's agency about the ATV coverage on July 6.
3. On or about July 31, 2012, when Mr. Hoiness submitted the application to the insurer for ATV insurance coverage, the system Mr. Hoiness used to submit the application asked if there were "any reportable incidents." Mr. Hoiness answered "no." At the time, Mr. Hoiness believed the insurer had already been aware of the claim loss notice. Mr. Hoiness believed the claim for the stolen ATV would not be covered under the client's other in-force insurance policy, and explained to the client that he would submit the application, but that it would be up to the insurer

if a loss would be paid. Mr. Hoiness submitted the application to the insurer with an effective date of July 6, 2012. Mr. Hoiness later indicated that he believed the claim would be denied and that he could then tell the client that at least he tried to help, but the insurer subsequently covered the loss. The insurer also subsequently contacted OIC about the matter. Mr. Hoiness was cooperative with OIC when asked about the matter, and he acknowledged making a mistake.

#### **CONCLUSIONS OF LAW:**

1. By knowingly making a false or misleading statement relative to an application for insurance to an insurer, Mr. Hoiness violated RCW 48.30.210.
2. By misrepresenting the terms of a policy, Mr. Hoiness violated RCW 48.30.090.
3. RCW 48.17.530(1) authorizes the Commissioner to suspend, revoke, or levy a civil penalty, and RCW 48.17.560 permits the Commissioner to impose a fine of not more than one thousand dollars per violation, in addition to or in lieu of the suspension, revocation or refusal to renew Licensee's license.

#### **CONSENT TO ORDER:**

Mr. Hoiness, acknowledging his duty to comply fully with the applicable laws of the State of Washington, consents to the following in consideration of his desire to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle the matter in consideration of Mr. Hoiness's payment of a fine and that he adhere to such terms and conditions as are set forth below.

1. Mr. Hoiness consents to the entry of this Order, waives any and all hearing rights, and further administrative or judicial challenges to this Consent Order.
2. By agreement of the parties, the Insurance Commissioner will impose a fine of \$2,000 (Two Thousand Dollars), and suspend \$1,000 (One Thousand Dollars) of that, on the conditions that:
  - a. Within thirty days of the entry of this Order, Mr. Hoiness pays \$1,000 (One Thousand Dollars).

b. Mr. Hoiness commits no further violations of the statutes and regulations that are the subject of this Order for a period of 2 (two) years from the date this Order is entered.

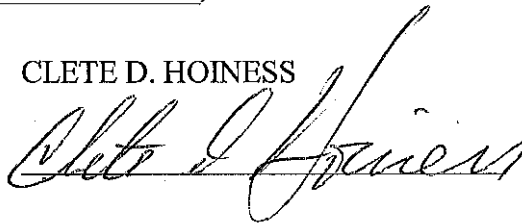
c. Mr. Hoiness understands and agrees that any future failure to comply with the statutes that are the subject of this Order constitutes grounds for further penalties, which may be imposed in direct response to further violation, in addition to the imposition of the suspended portion of this fine.

d. The suspended portion of this fine will be imposed at the sole discretion of the Insurance Commissioner according to the conditions as set forth above, without any right to hearing, appeal, or advance notice.

3. Mr. Hoiness's failure to timely pay this fine and to adhere to the conditions shall constitute grounds for revocation of Mr. Hoiness's license, and shall result in the recovery of both the suspended and unsuspended amounts of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

EXECUTED this 4 day of April, 2014.

CLETE D. HOINESS



**ORDER:**

Pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. Within thirty days of the entry of this Order, Clete D. Hoiness shall pay a fine in the amount of \$2,000 (Two Thousand Dollars), of which amount the sum of \$1,000 (One Thousand Dollars) is suspended on the condition that Mr. Hoiness shall fully comply with the laws of the State of Washington which are the subject of this Order and shall adhere to such terms and conditions as are set forth above for the next 2 (two) years.

2. Mr. Hoiness's failure to pay the fine within the time limit set forth above shall result in the revocation of his license and in the recovery of both the suspended and unsuspended amounts

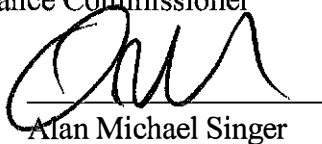
of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT TUMWATER, WASHINGTON, this 16<sup>th</sup> day of April 2014.

MIKE KREIDLER

Insurance Commissioner

By



Alan Michael Singer

Legal Affairs Division